

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

Civil Action Case No. 07 C 50246

FILED

pa R# 3714

APR 10 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Vernie L. Davenport, Jr.)

Plaintiff,)

V.)

Notice of Appeal

State of Illinois,)

JUDGE MICHAEL MALLON,)

JUDGE STEPHEN PEMBERTON,)

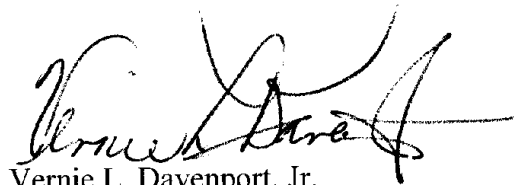
and)

Ogle County, Illinois Circuit Clerk)

Defendants.)

Notice of Appeal to the United States Court of Appeals for the Seventh Circuit

Vernie L. Davenport, Jr., *Pro Se*, the plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the Seventh Circuit from the final judgment entered in this action on the 12th day of March, 2008.



Vernie L. Davenport, Jr.
132 Jeffery Avenue
Rochelle, IL 61068-9705
(601) 868-0372

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 07 CV 50246

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

Vernie L Davenport, Jr - Appellant

State Of Illinois etal.

(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	Vernie L Davenport, Jr	Name	Kevin R. Lovellette
Firm		Firm	Illinois Attorney General's Office
Address	132 Jeffery Avenue Rochelle, IL 61068	Address	100 West Randolph Street 13th Floor Chicago, IL 60601
Phone	601-868-0372	Phone	(312)814-3720

Other Information			
District Judge	Frederick J. Kapala	Date Filed in District Court	12/21/2007
Court Reporter	Mary Lindbloom	Date of Judgment	03/13/2008
Nature of Suit Code	440 Civil Rights: Other	Date of Notice of Appeal	4/10/08

COUNSEL:

Appointed

☐

Retained

☐

Pro Se

☒

FEE STATUS:

Paid

☒

Due

☐

IFP

☐

IFP Pending

☐

U.S.

☐

Waived

☐

Has Docketing Statement been filed with the District Court Clerk's Office?

Yes

☒

No

☐

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted

☐

Denied

☐

Pending

☐

If Certificate of Appealability was granted or denied, date of order:

If defendant is in federal custody, please provide U.S. Marshall number (USM#):

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

SEVENTH DISTRICT COURT OF APPEALS
Civil Docketing Statement

Vernie L. Davenport, Jr.)	Appeals Case No. _____
)	
Plaintiff-Appellant,)	Trial Court Case No. 07 C 50246
)	
v.)	Trial Court Judge: Honorable Judge Kapala
)	
State of Illinois,)	
Judge Michael Mallon,)	
Judge Stephen Pemberton, and)	
Ogle County, Illinois Circuit Clerk)	
Defendants-Appellees)	

FILED

APR 10 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

Lead counsel for each plaintiff:

(Attach sheet to identify additional parties & counsel) (Attach sheet to identify additional parties & counsel)

Lead counsel for each defendant:

Name/Reg. No: Vernie L. Davenport, Jr.

Firm Name: (none)

Address: 132 Jeffery Avenue

Rochelle, Illinois 61068-9705

Name/Reg. No.: Kevin Lovellette

Firm Name: Office of Illinois Attorney General

Address: 100 W. Randolph Street, 13th Floor
Chicago, IL 60601

Phone No. 601-868-0372

Fax No. (none)

Phone No. 312-814-3720

Fax No.

Date Notice of Appeal Filed April 10, 2008 File Date of Order being Appealed March 12, 2008

If applicable:

Date & type of motion(s) per App. R. 4(B)(2) filed _____

Date of Order resolving motion(s) _____

Date docket record shows notice of final order mailed by clerk _____

Is a transcript of proceedings to be filed? [] Yes [x] No

Does appeal involve:

[] Summary Judgment [x] Motion to Dismiss [] Grant/vacate default judgment [] N/A

Is Oral Argument requested? ☐ Yes ☒ No

Must this case be expedited as being one of the following types - ☐ Yes ☐ No ☒

Appeal brought by minor child (R.C. 2505.073 & Appellate Rule 11.2)

☐ Appeal from an order granting or denying adoption or permanently terminating parental rights (Appellate Rule 11.2)

☐ Appeal regarding an order concerning a dependent, abused, neglected, unruly or delinquent child (Appellate Rule 11.2)

☐ Appeal involving matters of child custody, allocation of parental rights or responsibilities, or designation of a child's place of residence and legal custodian under (R.C. 3109.04(H) and 3109.06.)

☐ Juvenile Rule 22(F) Appeal ☐ Other:

Final appealable order:

(a) Has the trial court disposed of all claims by and against all parties?

☒ Yes. **Attach all judgments/orders resolving all claims against all parties.**

☐ No.

(b) If the answer to (a) is "no" has the trial court made an express determination that there is, "no just reason for delay," per Civ. R. 54(B), with respect to the judgment/order from which the appeal is taken?

☐ Yes, in the same judgment or order.

☐ Yes, in a subsequent order dated _____. **Attach subsequent order.** ☐

☐ No.

(c) Is the judgment/order subject to interlocutory appeal per R.C. 2505.02 (check all that apply)? ☐ Yes. The order affects a substantial right in an action and prevents a judgment. R.C. 2505.02(B)(1)

☐ Yes. The order was made in a special proceeding. R.C. 2505.02(B)(2).

☐ Yes. The order grants or denies a provisional remedy and meets the other criteria of R.C. 2505.02(B)(4).

☐ Yes. The order determines that an action may or may not be maintained as a class action. See R.C. 2505.02(B)(5).

☐ No.

(d) Does the right to an immediate appeal arise from a statute other than R.C. 2505.02?

☒ Yes. Identify statute: 28 U.S.C. §1291

☐ No.

NATURE OF CASE

<input type="checkbox"/> Original action	<input checked="" type="checkbox"/> General Civil Appeal	<input type="checkbox"/> Domestic Relations
<input type="checkbox"/> Juvenile	<input type="checkbox"/> Contract	<input type="checkbox"/> Declaratory Judgment
<input type="checkbox"/> Probate	<input type="checkbox"/> Medical Malpractice	<input type="checkbox"/> Administrative Appeal
<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Other, specify _____	

Was a stay of execution sought in the trial court? ☐ Yes ☒ No If Yes: granted/appealed/denied.

Is a stay request being filed with this court? ☐ Yes. ☒ No.

Have the parties to this appeal been parties to a previous appeal filed in this court?

☒ Yes ☐ No. If yes, please cite the case(s) 08-1819.

Do you know of another case(s) pending before this court or recently decided by this court which raises the same issue? ☐ Yes. ☒ No. If yes, please cite the case(s).

Summary Probable issues for review:


1. Circuit Court lack of jurisdiction
2. Lack of fair and unbiased tribunal
3. _____
4. _____

Does the appeal turn on an interpretation or application of a particular case(s) or statute(s)?

☒ Yes. ☐ No. If yes, please cite the case(s) and/or statute(s). Tumey v Ohio, 273 U.S. 510 (1927) (impartial judge), Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828) (void judgment), Pennoyer v. Neff, 95 U.S. 714, 732-733 (1878) (void judgment), and Old Wayne Mut. L. Assoc. v. McDonough, 204 U.S. 8 (void judgment challengeable in any court).

CERTIFICATION

I certify that the information provided on this docketing statement is accurate.



Signature of counsel or unrepresented party

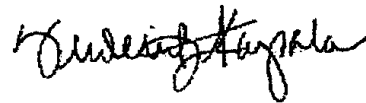
Order Form (01/2/05)

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Frederick J. Kapala	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 50246	DATE	3/12/2008
CASE TITLE	Davenport vs. State of Illinois, et al.		

DOCKET ENTRY TEXT:

Defendants' motion to dismiss [8] is granted. This case is closed.



Docketing to mail notices.

■ [For further details see text below.]

STATEMENT

Plaintiff, Vernie L. Davenport, proceeding pro se, brings this action pursuant to 28 U.S.C. § 1983 against defendants the State of Illinois, Judge Michael T. Mallon, Judge Stephen C. Pemberton, and the Ogle County Circuit Clerk, in their official capacities. In his complaint, plaintiff alleges that Judge Pemberton's rulings in a state court case violated his constitutional rights to procedural due process, to a fair and impartial trial, and to the equal protection of the law. Plaintiff seeks declaratory and injunctive relief from Judge Pemberton's orders.

Defendants have moved to dismiss the complaint on various grounds, including lack of subject-matter jurisdiction based on the Rooker-Feldman doctrine.¹ Under the Rooker-Feldman doctrine, a federal district court lacks jurisdiction over "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." Exon Mobile Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005); see also Sides v. City of Champaign, 496 F. 3d 820, 824 (7th Cir. 2007) ("[O]nly the Supreme Court of the United States may set aside a judgment entered by a state court."). Among plaintiff's requests for relief is that this court "[d]eclare that the State of Illinois and the Ogle County Circuit Clerk shall reverse, or cause to be reversed, changes to the Ogle County court docket caused, directly or indirectly, by Judge Pemberton's letter of November 14, 2007." Because plaintiff's complaint alleges injuries caused by a state-court judgment and seeks an order rejecting those judgments, the Rooker-Feldman doctrine is implicated and this court lacks subject-matter jurisdiction. Consequently, defendants' motion to dismiss is granted.

1. See Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983).

SEVENTH DISTRICT COURT OF APPEALS
Civil Docketing Statement

Vernie L. Davenport, Jr.)	
)	Appeals Case No. _____
Plaintiff-Appellant,)	
)	Civil Action Case No. 07 C 50246
)	
V.)	
)	Trial Court Judge: Honorable Judge Kapala
)	
State of Illinois,)	
Judge Michael Mallon,)	
Judge Stephen Pemberton, and)	
Ogle County, Illinois Circuit Clerk)	
)	
Defendants-Appellees)	

FILED

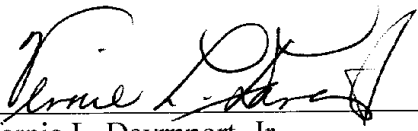
APR 10 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT.

NOTICE OF FILING

To: Kevin Lovellette
Assistant Attorney General
Office of the Attorney General
100 W. Randolph St., 13th Floor
Chicago, IL 60601

PLEASE TAKE NOTICE that on Thursday, 10th day of April, 2008, I filed in the United States District Court for the Northern District of Illinois, Eastern Division, at 211 S. Court Street, Rockford, Illinois 61101 the attached **Civil Docketing Statement** and **Transcript Information Sheet**.



Vernie L. Davenport, Jr.
132 Jeffery Avenue
Rochelle, IL 61068-9705
Area Code 601-868-0372

SEVENTH DISTRICT COURT OF APPEALS
Civil Docketing Statement


Vernie L. Davenport, Jr.)
) Appeals Case No. _____
Plaintiff-Appellant,)
) Civil Action Case No. 07 C 50246
)
V.)
) Trial Court Judge: Honorable Judge Kapala
)
State of Illinois,)
Judge Michael Mallon,)
Judge Stephen Pemberton, and)
Ogle County, Illinois Circuit Clerk)
)
Defendants-Appellees)

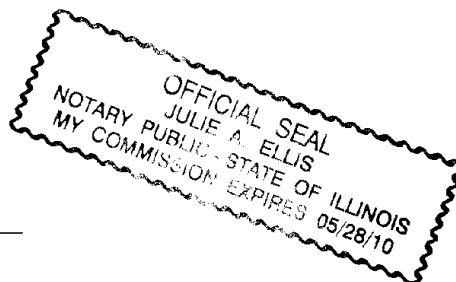
AFFIDAVIT

I, Vernie L. Davenport, Jr., on oath, deposes and says that I have served **PLAINTIFF'S Civil Docketing Statement** and **Transcript Information Sheet** to Kevin Lovellette on this 10th day of April, 2008 by U. S. Mail delivery.


Vernie L. Davenport, Jr.

SUBSCRIBED AND SWORN TO before
me this 10th day of April, 2008


Notary Public

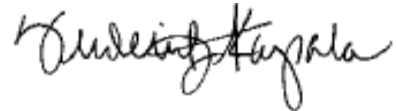


United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Frederick J. Kapala	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	07 C 50246	DATE	3/12/2008
CASE TITLE	Davenport vs. State of Illinois, et al.		

DOCKET ENTRY TEXT:

Defendants' motion to dismiss [8] is granted. This case is closed.



■ [For further details see text below.]

Docketing to mail notices.

STATEMENT

Plaintiff, Vernie L. Davenport, proceeding pro se, brings this action pursuant to 28 U.S.C. § 1983 against defendants the State of Illinois, Judge Michael T. Mallon, Judge Stephen C. Pemberton, and the Ogle County Circuit Clerk, in their official capacities. In his complaint, plaintiff alleges that Judge Pemberton's rulings in a state court case violated his constitutional rights to procedural due process, to a fair and impartial trial, and to the equal protection of the law. Plaintiff seeks declaratory and injunctive relief from Judge Pemberton's orders.

Defendants have moved to dismiss the complaint on various grounds, including lack of subject-matter jurisdiction based on the Rooker-Feldman doctrine.¹ Under the Rooker-Feldman doctrine, a federal district court lacks jurisdiction over "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." Exon Mobile Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005); see also Sides v. City of Champaign, 496 F. 3d 820, 824 (7th Cir. 2007) ("[O]nly the Supreme Court of the United States may set aside a judgment entered by a state court."). Among plaintiff's requests for relief is that this court "[d]eclare that the State of Illinois and the Ogle County Circuit Clerk shall reverse, or cause to be reversed, changes to the Ogle County court docket caused, directly or indirectly, by Judge Pemberton's letter of November 14, 2007." Because plaintiff's complaint alleges injuries caused by a state-court judgment and seeks an order rejecting those judgments, the Rooker-Feldman doctrine is implicated and this court lacks subject-matter jurisdiction. Consequently, defendants' motion to dismiss is granted.

1. See Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923); D.C. Court of Appeals v. Feldman, 460 U.S. 462 (1983).

United States District Court
Northern District of Illinois
Western Division

Vernie L. Davenport, Jr.

JUDGMENT IN A CIVIL CASE

v.

Case Number: 07 C 50246

State of Illinois, et al.

- ☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- ☒ Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that defendants' motion to dismiss is granted.
This case is closed.

Michael W. Dobbins, Clerk of Court

Date: 3/13/2008

/s/ Susan Wessman, Deputy Clerk

APPEAL, MAHONEY, TERMED

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 3.1.3 (Rockford)
CIVIL DOCKET FOR CASE #: 3:07-cv-50246
Internal Use Only

Davenport v. State Of Illinois et al
Assigned to: Honorable Frederick J. Kapala
Referred to: Honorable P. Michael Mahoney
Cause: 42:1983 Civil Rights Act

Date Filed: 12/21/2007
Date Terminated: 03/12/2008
Jury Demand: None
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff**Vernie L Davenport, Jr**

represented by **Vernie L Davenport, Jr**
132 Jeffery Avenue
Rochelle, IL 61068
601-868-0372
PRO SE

V.

Defendant**State Of Illinois**

represented by **Kevin R. Lovellette**
Illinois Attorney General's Office
100 West Randolph Street
13th Floor
Chicago, IL 60601
(312)814-3720
Email: klovellette@atg.state.il.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Judge Michael Mallon**

represented by **Kevin R. Lovellette**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED














Defendant**Judge Stephen Pemberton**










represented by **Kevin R. Lovellette**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Ogle County, Illinois Circuit Clerk**represented by **Kevin R. Lovellette**

(See above for address)

LEAD ATTORNEY**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
12/21/2007	 <u>1</u>	COMPLAINT filed by Vernie L Davenport, Jr; Filing fee \$ 350.(pg,) (Entered: 12/21/2007)
12/21/2007	 <u>2</u>	CIVIL Cover Sheet (pg,) (Entered: 12/21/2007)
12/21/2007	 <u>3</u>	PRO SE Appearance by Plaintiff Vernie L Davenport, Jr (pg,) (Entered: 12/21/2007)
12/21/2007	 <u>4</u>	(Court only) RECEIPT regarding payment of filing fee paid on 12/21/2007 in the amount of \$350.00, receipt number 3524 (pg,) (Entered: 12/21/2007)
12/21/2007		THIS matter is referred to the Honorable P. Michael Mahoney pursuant to Internal Operating Procedure 11(d) (pg,) (Entered: 12/21/2007)
01/14/2008	 <u>5</u>	MINUTE entry before Judge P. Michael Mahoney :Status hearing set for 2/8/2008 at 01:30 PM. Plaintiff is directed to notify any party filing an appearance subsequent to the entry of this order, of the status hearing. MAiled notice (glg,) (Entered: 01/14/2008)
01/17/2008	 <u>6</u>	SUMMONS Issued as to Defendants State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk (pg,) (Entered: 01/17/2008)
01/22/2008	 <u>7</u>	ATTORNEY Appearance for Defendants State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk by Kevin R. Lovellette (Lovellette, Kevin) (Entered: 01/22/2008)
01/22/2008	 <u>8</u>	MOTION by Defendants State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk to dismiss (Lovellette, Kevin) (Entered: 01/22/2008)
01/22/2008	 <u>9</u>	MEMORANDUM by State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk in support of motion to dismiss <u>8</u> (Lovellette, Kevin) (Entered: 01/22/2008)
01/22/2008	 <u>10</u>	NOTICE of Motion by Kevin R. Lovellette for presentment of motion to dismiss <u>8</u> before Honorable P. Michael Mahoney on 2/8/2008 at 01:30 PM. (Lovellette, Kevin) (Entered: 01/22/2008)
01/22/2008	 <u>11</u>	SUPPLEMENT by State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk to motion to dismiss <u>8</u> (<i>Exhibit A</i>) (Lovellette, Kevin) (Entered: 01/22/2008)
02/08/2008	 <u>12</u>	RESPONSE by Vernie L Davenport, Jr in Opposition to MOTION by Defendants State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk to dismiss <u>8</u> ; notice of filing (jat,) (Entered: 02/08/2008)

02/08/2008	 <u>13</u>	MEMORANDUM by Vernie L Davenport, Jr in Opposition to motion to dismiss <u>8</u> (jat,) (Entered: 02/08/2008)
02/08/2008	 <u>14</u>	MINUTE entry before Judge P. Michael Mahoney : Status hearing held on 2/8/2008. Defendant's Motion to dismiss <u>8</u> is taken under advisement; Set deadlines as to motion to dismiss <u>8</u> : Response due 2/8/08. Reply due 2/22/08. If a party is not going to file a brief in response or reply, it is that partys obligation, within the time frame established by this order, to so notify the court in writing. Status hearing set for 5/9/2008 at 01:30 PM.Mailed notice (glg,) (Entered: 02/08/2008)
02/22/2008	 <u>15</u>	REPLY by State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk to response in opposition to motion <u>12</u> (Lovellette, Kevin) (Entered: 02/22/2008)
02/22/2008	 <u>16</u>	NOTICE by State Of Illinois, Michael Mallon, Stephen Pemberton, Ogle County, Illinois Circuit Clerk re reply to response to motion <u>15</u> (Lovellette, Kevin) (Entered: 02/22/2008)
03/12/2008	 <u>17</u>	MINUTE entry before Judge Frederick J. Kapala : Defendants' motion to dismiss <u>8</u> is granted. This case is closed.[For further details see text below.] Docketing mailed notice (pg,) Modified on 3/13/2008 (pg,). (Entered: 03/13/2008)
03/13/2008	 <u>18</u>	ENTERED JUDGMENT Signed bycourt clerk for Judge Frederick J. Kapala on 3/13/2008:(pg,) (Entered: 03/13/2008)
04/10/2008	 <u>19</u>	NOTICE of appeal by Vernie L Davenport, Jr regarding orders <u>17</u> , <u>18</u> Filing fee \$ 455; receipt #3716 (pg,) (Entered: 04/10/2008)
04/10/2008	 <u>20</u>	DOCKETING Statement by Vernie L Davenport, Jr regarding notice of appeal <u>19</u> ; Notice Of Filing (pg,) (Entered: 04/10/2008)
04/10/2008	 <u>21</u>	SEVENTH CIRCUIT transcript information sheet by Vernie L Davenport, Jr (pg,) (Entered: 04/10/2008)